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March 15, 2017

The Honorable Stephen Ostroff, M.D.
Acting Commissioner
The Food and Drug Administration
10903 New Hampshire Avenue
White Oak, RM 322346
Silver Spring, MD 20993

Dear Acting Commissioner Ostroff,

I am deeply concerned about the Food and Drug Administration (FDA)'s policy of withholding the names and locations of stores and schools where recalled food products are sold for fear of violating trade secrets. As you are aware, the nation is in the midst of numerous foodborne outbreaks, including a *Listeria* outbreak in soft cheese that killed two consumers and an *E. coli* outbreak in SoyNut Butter that caused five kidney failures and eight hospitalizations in children. The primary mission of the FDA as a regulatory agency is to not protect the trade secrets of food corporations but rather to protect families from the dangers of contaminated products. Therefore, I urge the Agency to immediately make recall information public so that consumers and parents can have the most up-to-date information regarding their health and safety.

A recent *Washington Post* article quoted an Agency spokesman as saying that "federal disclosure rules" prevent FDA from releasing downstream recall information. The spokesman specifically cited the Freedom of Information Act and suggested that it does not allow FDA to disclose downstream recall information because that information is "confidential." However, similar information has routinely been made available by the Department of Agriculture's Food Safety Inspection Service (FSIS) since 2008. To better understand why this discrepancy exists between the federal food safety agencies recall policy, please provide detailed responses to the following questions:

- 1) FSIS indicated in its 2008 rulemaking that providing downstream recall information would "be useful to provide an additional mechanism for prompting consumers to examine products stored in their refrigerator, freezer, or cupboard"? Does FDA believe this rationale does not apply to FDA regulated food products?

- 2) FSIS indicated in its 2008 rulemaking that downstream recall information “will complement the product identification information that FSIS already makes available and will provide additional opportunities for local media outlets and State and local health officials to transmit more targeted information about the recall to consumers.” Does FDA believe this rationale does not apply to FDA regulated food products?
- 3) Does FDA believe that the FSIS disclosure policy is unlawful? If not, does FDA believe that FSIS’ authorizing statutes give that agency needed authority that FDA lacks to disclose downstream recall information?

At a time when families are impacted by food recalls across the nation, it is shameful that they must rely on the good faith of food corporations to provide all the necessary recall information. The FDA should take immediate action to reverse its stance on the release of public recall information in order to ensure that consumers, schools, and retailers have the most accurate information. This simple action could save lives.

Thank you for your attention to this pressing matter and I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink that reads "Rosa L. DeLauro". The signature is written in a cursive, flowing style.

Rosa L. DeLauro
Member of Congress